

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 10/601,200
Attorney Docket No.: Q76217

REMARKS

Claims 11, 13-18, and 20 are all the claims pending in the application. By this Amendment, Applicant amends claims 11, 14, 16, 18, and 20. Claims 11 and 18 are amended to further clarify the invention and claims 14, 16, and 20 are amended for conformity with the amended claims 11 and 18. In addition, by this Amendment, Applicant cancels claims withdrawn claims 1-10 and claims 12 and 19 and adds claims 21 and 22. Claims 21 and 22 are clearly supported throughout the specification.

Preliminary Matters

As preliminary matters, Applicant thanks the Examiner for returning the initialed form PTO/SB/08 submitted with the Information Disclosure Statement filed on August 9, 2005.

The Examiner, however, has not indicated approval of the drawings filed on June 23, 2003. Also, the Examiner has not acknowledged Applicant's claim to priority and has not indicated receipt of the certified copies of the priority documents filed on September 10, 2004. However, a review of the Image File Wrapper on the USPTO Pair Website shows that the certified copies of the priority documents were received on September 10, 2004. Accordingly, Applicant respectfully requests the Examiner to acknowledge foreign priority, receipt of the priority document, and to indicate approval of the drawings.

Summary of the Office Action

Claims 11, 14, 16, 18, and 20 are rejected under 35 U.S.C. § 102 and claims 12, 13, 15, 17, and 19 are rejected under 35 U.S.C. § 103.

AMENDMENT UNDER 37 C.F.R. § 1.111
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Claim Rejections

The Examiner contends claims 11, 14, 16, 18, and 20 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2002/0105560 to Shimizu et al. (hereinafter “Shimizu”). Applicant respectfully traverses these grounds for rejection in view of the following comments.

Of these rejected claims, only claims 11 and 18 are independent. Independent claims 11 and 18, among a number of unique features, in some variation, recite stopping the movement of the wiping member relative to the carriage for a predetermined time period in a state that the wiping member is brought into press contact with the inclined plate after wiping the liquid ejecting head. Shimizu fails to disclose or suggest an inclined plate, as acknowledged by the Examiner (*see* page 4 of the Office Action). That is, Shimizu does not disclose or suggest having the wiping member in press contact with an inclined plate. For at least these exemplary reasons, claims 11 and 18 patentably distinguish from Shimizu. Therefore, it is appropriate and necessary for the Examiner to withdraw this rejection of claims 11 and 18. Claims 14, 16, and 20 are patentable at least by virtue of their dependency on claims 11 and 18.

Claims 12 and 19 are rejected under 35 U.S.C. § 103(a) as being obvious over Shimizu in view of JP 05201012 to Ikeda (hereinafter “Ikeda”) and claims 13, 15, and 17 are rejected under 35 U.S.C. § 103(a) as being obvious over Shimizu in view of U.S. Publication No. 2004/0130588 to Nakagawa et al. (hereinafter “Nakagawa”). Applicant respectfully traverses these grounds of rejections in view of the following comments.

Section 103(c) of the U.S. Patent Statute provides that:

subject matter developed by another person which
qualifies as prior art only under one or more

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U.S. Appln. No. 10/601,200
Attorney Docket No.: Q76217

subsections (e), (f) and (g) of §102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This provision, which became effective November 29, 1999 for all applications filed after that date, precludes a commonly assigned patent from being prior art under §102(e)/103.

Shimizu and the present application, at the time of the invention, were both subject of an obligation of assignment to SEIKO EPSON Corp. and the present application was filed on June 23, 2003, which is after the November 29, 1999 amendment to 35 U.S.C. § 103(c).

Applicant notes that Shimizu has a publication date of August 8, 2002, which is prior to the U.S. filing date of the above-identified application. Applicant respectfully submits, however, that the foreign priority documents of the above-identified application are being translated. That is, Applicant will be submitting verified translations of the foreign priority documents in the very near future. By perfecting Applicant's claim to foreign priority, Shimizu will qualify as a prior art reference only under 35 U.S.C. § 102(e).

Consequently, on the basis of this section, the Shimizu reference, is excluded from use in formulating a rejection under 35 U.S.C. § 103 against the present application. Accordingly, it is appropriate and necessary for the Examiner to withdraw this rejection of claims 13, 15, and 17. Since claims 12 and 19 have been canceled, this rejection is rendered moot.

New Claims

In order to provide more varied protection, Applicant adds claims 21 and 22. Claims 21 and 22 are patentable at least by virtue of their dependency on claim 11.

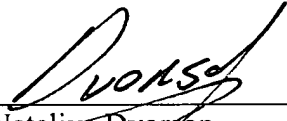
AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 10/601,200
Attorney Docket No.: Q76217

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Nataliya Dvorson
Registration No. 56,616

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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Attorney Docket No.: Q76217